

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JESSE M. SMITH,

Plaintiff,

08 CV 4299 (SS)

ANSWER

-against-

LOCAL UNION 1974 DRYWALL TAPERS,

Defendant.

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Defendant Drywall Tapers and Pointers of Greater New York, Local Union 1974, IUPAT, AFL-CIO, sued herein as Local Union 1974 Drywall Tapers, by its attorneys Lewis, Clifton & Nikolaidis, P.C., answers the complaint as follows:

1. Admits the allegations set forth in Paragraph I of the Complaint.
2. Denies the allegations set forth in Paragraph II of the Complaint.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph III of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. The Complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

5. Plaintiff's claims are time barred under the applicable statutes of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

6. Plaintiff failed to exhaust administrative remedies.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

7. Plaintiff failed to exhaust the internal union remedies.

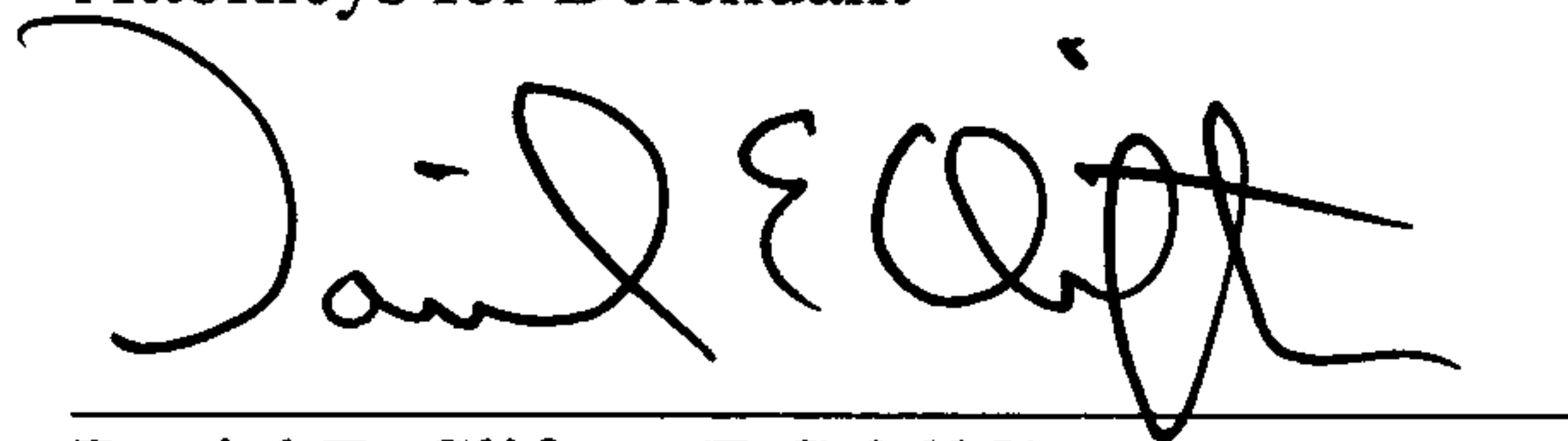
AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

8. Plaintiff's claims are preempted by the National Labor Relations Act and/or Labor Management Relations Act of 1947.

Dated: New York, New York
July 9, 2008

LEWIS, CLIFTON & NKOLAIDIS, P.C.
Attorneys for Defendant

By:

A handwritten signature in black ink, appearing to read "Daniel E. Clifton", written over a horizontal line.

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